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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,330	10/18/2001	Robert D. Burgess	BRF-100-B	6594

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EXAMINER

ILAN, RUTH

ART UNIT	PAPER NUMBER
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3616

DATE MAILED: 02/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/982,330

Applicant(s)

BURGESS, ROBERT D.

Examiner

Ruth Ilan

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 211/02 and the correction of 7/3/03 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 29, 2003 has been entered.

Specification

2. The use of the trademarks KEVLAR and NYLON has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 4-7 and 11-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 4 and 7, line 2 each recite "the

connector". Claims 11, 13, 15, and 16 recite "the attachment member". There is insufficient antecedent basis for these limitations in the claims. Additionally, claims 11 and 13 each recite "a tightenable strap". Since claim 1 already introduces a strap, it is unclear if this double recitation is meant to include a further strap.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1, 3, 7-10 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Mouws (US 6,203,055.) Mouws teaches a vehicle air bag arrestor (1) mountable on a steering column carrying a steering wheel (7) having an airbag. The arrestor includes an enclosure with an open and closed end, and further includes attachment means including a strap (3) and a connector means (loops 9, that receive the free end of the strap and connect with the hook (5) for releasably tightening the strap and the enclosure about a vehicle steering column using a single hand. Please note that that the strap may be tightened using a single hand. The limitation "for releasably tightening the strap and the enclosure....using a single hand" is considered by the Examiner to be intended use, and as such has been given little patentable weight. Additionally, the connector means of the attachment means of Mouws can be

operated with one hand. A discussion of the "means-plus-function" argument presented by the Applicant is to be found in the Response to Arguments section below. The enclosure has a side wall, and is made from KEVLAR.

Claim Rejections - 35 USC § 103

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 11-14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mouws (US 6,203,055 B1.) Mouws is discussed above and discloses a tightening strap but does not disclose ballistic grade nylon. It would have been obvious to one having ordinary skill in the art at the time of the invention to make the cord out of ballistic grade nylon, so as to provide a cord of sufficient strength, and since it has been held to be within the general skill level of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Allowable Subject Matter

9. Claims 4-7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

10. Applicant's arguments filed October 29, 2003 have been fully considered but they are not persuasive. First of all, regarding Applicant's discussion of the "means-plus-

function" issues, it is the Examiner's position that claim 1, as amended fails to evoke 112 6th paragraph, if that is the Applicant's intention. The Applicant is directed to MPEP 2181. Based on the 3-prong analysis, the claim fails part C) in that there are is also recited structure, material and acts for achieving the specified function. As such, this limitation has been given little patentable weight, since the recitation is intended use. Second of all, the cord of Mouws can be tightened with one hand and as such meets the functional limitations of the claim. Mouws does not disclose an elastic cord, and so Applicant's arguments with respect to the manner in which an elastic cord may behave are confusing. Additionally, the scenario in which the cord of Mouws would have to be dropped and then clasped again is confusing. Why wouldn't the user merely hold onto the cord and continue to wrap it around the steering column. The only reason to drop the cord would be if the steering column didn't end at the wheel, but continued to the roof of the vehicle.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Maxedon et al. teaches an air bag cover of interest.

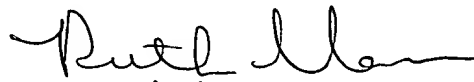
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ruth Ilan whose telephone number is 703-306-5956. The examiner can normally be reached on Monday-Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 703-308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RI
February 9, 2004

Ruth Ilan
Examiner
Art Unit 3616


2/9/04